



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,879	09/10/2003	David Matthew Oles	IGTECH.0115P	6926

7590 02/11/2005

MICHAEL R. HULL  
MARSHALL, GERSTEIN & BORUN LLP  
6300 SEARS TOWER  
233 SOUTH WACKER DRIVE  
CHICAGO, IL 60606-6357

EXAMINER

ONEILL, MICHAEL W

ART UNIT	PAPER NUMBER
----------	--------------

3713

DATE MAILED: 02/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/660,879	<b>Applicant(s)</b> OLES ET AL. <span style="float: right;">CD</span>	
	<b>Examiner</b> Michael O'Neill	<b>Art Unit</b> 3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2-23-4</u> . | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 3713

**DETAILED ACTION*****Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10-15-04 has been entered.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 103***

The rejections of claims 1-4 and 6-9 under 35 U.S.C. § 103(a) as being unpatentable over Colbert, Cumbers, Soltys and DeBan is maintained from the Final Office action on the merits dated 8-11-04 and is incorporated herein with supplementation due to the amended language. It should be noted that Cumbers in col. 5:10-12 teaches "the camera 20' may be mounted on the device 34 or may be incorporated therewith". Thusly, Cumbers makes obvious the amended language of facial information being obtained at said gaming machine; and the comparison of the player at the gaming machine to the image on the card is taught

Art Unit: 3713

as well by the additional teaching found in Cumbers of: "as suggested in fig. 2, if the acquired image substantially corresponds to a stored image entry, the identified player's account file, shown as account file 30a, is placed into an open condition to receive the parameter of player form the gaming device 34 being played by the player.

The rejection of claim 5 under 35 U.S.C. § 103(a) as being unpatentable over Colbert, Cumbers, Soltys, DeBan and Alden '766 is maintained from the Final Office action on the merits dated 8-11-04 and is incorporated herein.

#### ***Response to Arguments***

Applicant's arguments filed 10-15-2004 have been fully considered but they are not persuasive.

Viewing the arguments presented *in toto* the Applicant's argue the references individually instead of arguing the references as whole. It has been held that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's argument that Colbert is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not,

Art Unit: 3713

then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Colbert is directed to identifying a person wanting access to particular instrumentalities; which is what the applicant appears to be particularly concerned in the field of gaming.

In response to Applicant's remarks that *Cumbers* does not teach or suggest the use of a card at a machine for determining whether the person using the card at the machine is entitled to use that card, the Examiner respectfully disagrees with this line of reasoning for two reasons. One, "entitlement" is not in the claim limitations; therefore the argument is not commensurate in scope with the claim language as now drafted. Two, *Cumbers* does teach this aspect. Because the player file is opened upon the correspondence of stored and capture images, along with the other teachings of other references making known player tracking/comping cards, the positive correspondence entitles the player to use the gaming machine and have access to that account to which the file is attached thereto which means likewise is entitled to use a card.

Art Unit: 3713

In response to Applicant's contention regarding the teachings of Soltys, the Examiner wishes to inform Applicant that the Examiner was showing to the Applicant the notoriously well known concept of comping players in casinos. If the Applicant does not believe that comping is Las Vegas casinos is not well known to those skilled in the art at the time the invention was created; then the Office is requiring a declaration or affidavit under Rule 132 to that effect to be placed in the record in order that such allegations can be readily identified to anyone viewing the file wrapper history of this application.

In response to applicant's argument that DeBan is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, DeBan teaches go directly to the Applicant's particular problem that is of concern and is within the field of endeavor regarding the accessibility and transfer of monies: a gaming machine and an ATM are both instrumentalities that permit

Art Unit: 3713

the person in front of each device to access money whether by positive, a win or deposit; or negative, a loss or withdrawn.

With respect to the Applicant's comments regarding Alden, the Examiner states that the reference teachings the notoriously well known concept of converting, if needed, analog signals to digital signals, A to D converters have been around in the art for a number of years and before the advent of CCD and digital cameras which capture images digitally said converters were needed to process such analogy captured images.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael O'Neill whose telephone number is 571-272-4442. The examiner can normally be reached on Monday through Friday 8:30 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3713

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MON

A handwritten signature in black ink, appearing to read "M O'Neill", is written over the printed name.

MICHAEL O'NEILL  
PRIMARY EXAMINER